THE PRESIDENT'S HEALTH CARE BILL
March 21, 2010

The President's Bill puts American families and small business owners in control of their own health care.

- It makes insurance more affordable by providing the largest middle class tax cut for health care in history, reducing premium costs for tens of millions of families and small business owners who are priced out of coverage today. This helps over 32 million Americans afford health care who do not get it today – and makes coverage more affordable for many more. Under the plan, 95% of Americans will be insured.

- It sets up a new competitive health insurance market giving tens of millions of Americans the same choices of insurance that members of Congress will have.

- It brings greater accountability to health care by laying out commonsense rules of the road to keep premiums down and prevent insurance industry abuses and denial of care.

- It will end discrimination against Americans with pre-existing conditions.

- It puts our budget and economy on a more stable path by reducing the deficit by more than $100 billion over the next ten years – and more than $1 trillion over the second decade – by cutting government overspending and reining in waste, fraud and abuse.

The President's Bill bridges the gap between the House and Senate bills and includes new provisions to crack down on waste, fraud and abuse.

It includes a targeted set of changes to the Patient Protection and Affordable Care Act, the Senate-passed health insurance reform bill. The President's Bill reflects policies from the House-passed bill and the President's priorities. Key changes include:

- Eliminating the Nebraska FMAP provision and providing significant additional Federal financing to all States for the expansion of Medicaid;
- Closing the Medicare prescription drug "donut hole" coverage gap;
- Strengthening the Senate bill's provisions that make insurance affordable for individuals and families and increase protections for out-of-pocket costs;
- Strengthening the provisions to fight fraud, waste, and abuse in Medicare and Medicaid;
- Increasing the threshold for the excise tax on the most expensive health plans from $23,000 for a family plan to $27,500 and starting it in 2018 for all plans;

A detailed summary of the provisions included in the President's Plan is set forth below:

Policies to Improve the Affordability and Accountability

Increase Tax Credits for Health Insurance Premiums. Health insurance today often costs too much and covers too little. Lack of affordability leads people to delay care, skip care, rack up large medical bills, or become uninsured. The House and Senate health insurance bills lower premiums through increased competition, oversight, and new accountability standards set by insurance exchanges. The bills also provide tax credits and reduced cost sharing for families with modest income. The President's Bill improves the affordability of health care by increasing the tax credits for families. Relative to the Senate bill, the President's Bill lowers premiums for families with income below $44,000 and above $66,000. Relative to the House bill, the bill makes premiums less expensive for families with income between roughly $55,000 and $88,000.

Tax Credits: Maximum Percent of Income Paid for Premiums

Income for a Family of Four From:	To:	House	Senate	President's Proposal
$22,000	$29,000	1.5%	2.0%	2.0%
$29,000	$33,000	1.5 - 3.0%	4.0 - 4.6%	3.0 - 4.0%
$33,000	$44,000	3.0 - 5.5%	4.6 - 6.3%	4.0 - 6.3%
$44,000	$55,000	5.5 - 8.0%	6.3 - 8.1%	6.3 - 8.05%
$55,000	$66,000	8.0 - 10.0%	8.1 - 9.8%	8.05 - 9.5%
$66,000	$77,000	10.0 - 11.0%	9.8%	9.5%
$77,000	$88,000	11.0 - 12.0%	9.8%	9.5%

Ranges from 133-150% of poverty, then 150-400% of poverty in 50% increments, rounded to the nearest $1,000

Over the long-term, the Administration and Congressional leaders believe the reductions in health care cost growth will allow these health tax cuts to continue to expand at the rate of health care cost growth. However, in order to ensure that the bill as a whole achieves substantial deficit reduction in the second decade and beyond, the President's Bill includes a failsafe fiscal responsibility policy. Beginning in the second decade, if the total cost of the premium tax credits in the bill exceeds 90 percent of the level that CBO projects, individual tax credits will continue to be adjusted upward, but at the rate of general inflation. If in subsequent years the total cost of the tax credits falls back below 90 percent of CBO's estimate, the growth rate of the tax credits will revert back to the rate of health care costs guaranteed in the first decade. This general approach is similar to other trigger mechanisms in the bill, including in IPAB.

The President's Bill also improves the cost sharing assistance for individuals and families relative to the Senate bill. Families with income below $55,000 will get extra assistance; the additional funding to insurers will cover between 73 and 94% of their health care costs. It provides the same cost-sharing assistance as the Senate bill for higher-income families and the same assistance as the House bill for families with income from $77,000 to $88,000.

Reduced Cost Sharing: Percent of Costs Paid for by Health Insurance Plan

Income for a Family of Four From:	To:	House	Senate	President's Proposal
$29,000	$33,000	97%	90%	94%
$33,000	$44,000	93%	80%	87%
$44,000	$55,000	85%	70%	73%
$55,000	$66,000	78%	70%	70%
$66,000	$77,000	72%	70%	70%
$77,000	$88,000	70%	70%	70%

Ranges from 133-150% of poverty, then 150-400% of poverty in 50% increments, rounded to the nearest $1,000

Close the Medicare Prescription Drug "Donut Hole". The Medicare drug benefit provides vital help to seniors who take prescription drugs, but under current law, it leaves many beneficiaries without assistance when they need it most. Medicare stops paying for prescriptions after the plan and beneficiary have spent $2,830 on prescription drugs, and only starts paying again after out-of-pocket spending hits $4,550. This "donut hole" leaves seniors paying the full cost of expensive medicines, causing many to skip doses or not fill prescriptions at all – harming their health and raising other types of health costs. The Senate bill provides a 50% discount for certain drugs in the donut hole. The House bill fully phases out the donut hole over 10 years. Both bills raise the dollar amount before the donut hole begins by $500 in 2010.

Relative to the Senate bill, the President's Bill fills the "donut hole" entirely. It begins by replacing the $500 increase in the initial coverage limit with a $250 rebate to Medicare beneficiaries who hit the donut hole in 2010. It also closes the donut hole completely by phasing down the coinsurance so it is the standard 25% by 2020 throughout the coverage gap.

Invest in Community Health Centers. Community health centers play a critical role in providing quality care in underserved areas. About 1,250 centers provide care to 20 million people, with an emphasis on preventive and primary care. The Senate bill increases funding to these centers for services by $7 billion and for construction by $1.5 billion over 5 years. The House bill provides $12 billion over the same 5 years. Bridging the difference, the President's Bill invests $11 billion in these centers.

Extend Consumer Protections against Health Insurer Practices. The Senate bill includes a "grandfather" policy that allows people who like their current coverage, to keep it. The President's Bill adds certain important consumer protections to these "grandfathered" plans. Within months of legislation being enacted, it prohibits rescissions, bans lifetime limits on benefit payments, and requires new plans and certain grandfathered plans to cover child dependents up to age 26. The President's Bill also adds new protections on group health plans that restrict annual limits and ban pre-existing condition exclusions for children. When the exchanges begin in 2014, these plans – along with all new plans – will not be able to impose any annual benefit limits or deny anyone coverage because of a pre-existing condition.

Improve Individual Responsibility. All Americans should have affordable health insurance coverage. This helps everyone, both insured and uninsured, by reducing cost shifting, where people with insurance end up covering the inevitable health care costs of the uninsured, and making possible robust health insurance reforms that will curb insurance company abuses and increase the security and stability of health insurance for all Americans. The House and Senate bills require individuals who have affordable options but who choose to remain uninsured to make a payment to offset the cost of care they will inevitably need. The House bill's payment is a percentage of income. The Senate sets the payment as a flat dollar amount or percentage of income, whichever is higher (although not higher than the lowest premium in the area). Both the House and Senate bill provide a low-income exemption, for those individuals with incomes below the tax filing threshold (House) or below the poverty threshold (Senate).The Senate also includes a "hardship" exemption for people who cannot afford insurance, included in the President's Bill. It protects those who would face premiums of more than 8 percent of their income from having to pay any assessment and they can purchase a low-cost catastrophic plan in the exchange if they choose.

The President's Bill adopts the Senate approach but lowers the flat dollar assessments, and raises the percent of income assessment that individuals pay if they choose not to become insured. Specifically, it lowers the flat dollar amounts from $495 to $325 in 2015 and $750 to $695 in 2016. Subsequent years are indexed to $695 rather than $750, so the flat dollar amounts in later years are lower than the Senate bill as well. The President's Bill raises the percent of income that is an alternative payment amount from 0.5 to 1.0% in 2014, 1.0 to 2.0% in 2015, and 2.0 to 2.5% for 2016 and subsequent years – the same percent of income as in the House bill, which makes the assessment more progressive. For ease of administration, the President's Bill changes the payment exemption from the Senate policy (individuals with income below the poverty threshold) to individuals with income below the tax filing threshold (the House policy). In other words, a married couple filing jointly with income below $18,700 will not have to pay the assessment. The President's Bill also adopts the Senate's "hardship" exemption.

Strengthen Employer Responsibility. Businesses are strained by the current health insurance system. Health costs eat into their ability to hire workers, invest in and expand their businesses, and compete locally and globally. Like individuals, larger employers should share in the responsibility for finding the solution. Under the Senate bill, there is no mandate for employers to provide health insurance. But as a matter of fairness, the Senate bill requires large employers (i.e., those with more than 50 workers) to make payments only if taxpayers are supporting health insurance coverage for their workers. The assessment on the employer is $3,000 per full-time worker obtaining tax credits in the exchange if that employer's coverage is unaffordable, or $750 per full-time worker if the employer has a worker obtaining tax credits in the exchange but doesn't offer coverage in the first place. The House bill requires a payroll tax for insurers that do not offer health insurance that meets minimum standards. The tax is 8% generally and phases in for employers with annual payrolls from $500,000 to $750,000; according to the Congressional Budget Office (CBO), the assessment for a firm with average wages of $40,000 would be $3,200 per worker.

The President's Bill is consistent with the Senate bill in that it does not impose a mandate on employers to offer or provide health insurance, but does require them to help defray the cost if taxpayers are footing the bill for their workers. The President's Bill improves the transition to the employer responsibility policy for employers with 50 or more workers by subtracting out the first 30 full-time workers from the payment calculation (e.g., a firm with 51 workers that does not offer coverage will pay an amount equal to 51 minus 30, or 21 times the applicable per employee payment amount). It changes the applicable payment amount for firms with more than

50 employees that do not offer coverage to $2,000 – an amount that is one-third less than the average House assessment for a typical firm and less than half of the average employer contribution to health insurance in 2009. It applies the same firm-size threshold across the board to all industries. It fully eliminates the assessment for workers in a waiting period, while maintaining the 90-day limit on the length of any waiting period beginning in 2014.

Under the President's Bill, small businesses will receive $40 billion in tax credits to support coverage for their workers beginning this year.

Policies to Crack Down on Waste, Fraud and Abuse

The House and Senate health reform bills contain an unprecedented array of aggressive new authorities to fight waste, fraud and abuse. The President's Bill builds on those provisions by incorporating a number of additional proposals that are either part of the Administration's FY 2011 Budget Proposal or were included in Republican plans.

Community Mental Health Centers. The President's Proposal ensures that individuals have access to comprehensive mental health services in the community setting, but strengthens standards for facilities that seek reimbursement as community mental health centers by ensuring these facilities are providing appropriate care and not taking advantage of Medicare patients or the taxpayers. (Source: H.R. 3970, "Medical Rights & Reform Act" (Kirk bill))

Additional Funding to Fight fraud, Waste and Abuse. The Bill increases funding for the Health Care Fraud and Abuse Control Fund by $250 million over the next decade.

Medicare Prepayment Medical Review Limitations. The Bill streamlines procedures to conduct Medicare prepayment reviews to facilitate additional reviews designed to reduce fraud and abuse.

Provides for a 90-day Period of Enhanced Oversight for Initial Claims of DME Suppliers. The Bill requires a 90-day period to withhold payment and conduct enhanced oversight in cases where the HHS Secretary identifies a significant risk of fraud among DME suppliers.

Policies to Contain Costs and Ensure Fiscal Sustainability

Improve Medicare Advantage Payments. Medicare currently overpays private plans by 14 percent on average to provide the same benefits as the traditional program – and much more in some areas of the country. The Medicare Advantage program has also done little to reward quality. Moreover, plans have gamed the payment system in ways drive up the public cost of the program. All of this is why Medicare Advantage has become a very profitable line of business for some of the nation's largest health insurers. The Senate bill creates a bidding model for payment rates and phases in changes to limit potential disruptions for beneficiaries. The House bill phases payments down based on local fee-for-service costs.

The President's Bill represents a compromise between the House and Senate bills, blending elements of both bills, while providing greater certainty of cost savings by linking to current fee-for-service costs. Specifically, the President's Bill creates a set of benchmark payments at different percentages of the current average fee-for-service costs in an area. It phases these benchmarks in gradually in order to avoid disruption to beneficiaries, taking into account the relative payments to fee-for-service costs in an area. It provides bonuses for quality and enrollee satisfaction. It adjusts rebates of savings between the benchmark payment and actual plan bid to take into account the transition as well as a plan's quality rating: plans with low quality scores receive lower rebates (i.e., can keep less of any savings they generate). The President's Bill requires a payment adjustment for unjustified coding patterns in Medicare Advantage plans that have raised payments under risk adjustment more rapidly than the evidence of their enrollees' health status and costs suggests is warranted, based on actuarial analysis.

The Bill also includes a new policy that will require Medicare Advantage plans to spend at least 85% of revenue on medical costs or activities that improve the quality of care rather than excessive executive compensation and other unjustified overhead costs. Lastly, it eliminates the comparative cost adjustment program that has not yet been implemented and would cost $100 million.

Delay and Reform the High-Cost Plan Excise Tax. Part of the reason for high and rising insurance costs is that insurers have little incentive to lower their premiums. That is why the President's Bill includes a tax on health insurers offering the highest-premium health care plans. CBO has estimated that this policy will reduce premiums as well as contribute to long-run deficit reduction. The President's Bill changes the effective date of the Senate policy from 2013 to 2018 to provide additional transition time for high-cost plans to become more efficient. It also raises the amount of premiums that are exempt from the assessment from $8,500 for singles to $10,200 and from $23,000 for families to $27,500 and indexes these amounts at general inflation plus 1 percent for 2019, and general inflation thereafter. To the degree that health costs rise unexpectedly quickly between now and 2018, the initial threshold would be adjusted upwards automatically. To ensure that the tax targets the plans with the most generous benefits rather than simply plans with high costs, the President's Bill includes an adjustment for firms whose health costs are higher due to the age or gender of their workers, no longer counts dental and vision benefits as potentially taxable benefits, and includes a permanent adjustment in favor of high-risk occupations such as "first responders."

Broaden the Medicare Hospital Insurance (HI) Tax Base for High-Income Taxpayers. Under current law, people who earn a salary pay the Medicare HI tax on their earned income, but those who have substantial unearned income do not, raising issues of fairness. The President's Bill adopts the Senate bill approach and adds a 3.8 percent assessment (equal to the combined employer and employee share of the existing HI tax) on income from interest, dividends, annuities, royalties and rents, other than such income which is derived in the ordinary course of a trade or business which is not a passive activity (e.g., income from active participation in S corporations) on taxpayers with respect to income above $200,000 for singles and $250,000 for married couples filing jointly. The additional revenues from the tax on earned income would be credited to the HI trust fund and the revenues from the tax on unearned income would be credited to the Supplemental Medical Insurance (SMI) trust fund.

Increase in Fees on Brand Name Pharmaceuticals. As more Americans gain health insurance, more will be able to pay for prescription drugs. Moreover, the President's plan closes the Medicare "donut hole," ensuring that seniors do not skip or cut back on needed prescriptions. Both policies will result in new revenue for the pharmaceutical industry. The President's Bill raises $27 billion from an assessment on this industry. It also delays the implementation of the assessment by one year, until 2011, and makes changes to facilitate administration by the IRS.

Close Tax Loopholes. The President's Bill includes two provisions pringinally in the House bill to close tax loopholes: (1) Current law provides a tax credit for the production of cellulosic biofuels. The credit was designed to promote the production and use of renewable fuels. Certain liquid byproducts derived from processing paper or pulp (known as "black liquor" when derived from the kraft process) were not intended to be covered by this credit. The President's Bill adopts the House bill's policy to clarify that they are not eligible for the tax credit. (2) The President's Bill helps prevent unjustified tax shelters by clarifying the circumstances under which transactions have "economic substance" (as opposed to being undertaken solely to obtain tax benefits) and raises the penalties for transactions that lack economic substance.

OTHER POLICY IMPROVEMENTS

Improve the Fairness of Federal Funding for States. States have been partners with the Federal government in creating a health care safety net for low-income and vulnerable populations. They administer and share in the cost of Medicaid and the Children's Health Insurance Program (CHIP). The Senate bill creates a nationwide Medicaid eligibility floor as a foundation for exchanges at $29,000 for a family of 4 (133% of poverty) – and provides financial support that varies by State to do so.

Relative to the Senate bill, the President's Bill replaces the variable State support in the Senate bill with uniform 100% Federal support for all States for newly eligible individuals from 2014 through 2016, 95% support for 2017, 94% support for 2018, 93% for 2019, and 90% for 2020 and subsequent years. This approach resembles that in the House bill, which provided full support for all States for the first two years, and then 91% support thereafter. The President's Bill also recognizes the early investment that some States have made in helping the uninsured by expanding Medicaid to adults with income below 100% of poverty by increasing those States' matching rate for the cost of childless adults. It phases up the Federal matching payments so it is equal to that for the cost of newly eligible people by 2019 The President's Bill also provides additional assistance to the Territories by providing them with an additional $2 billion and the option to establish an Exchange.

Primary Care Payments Under Medicaid. The Bill provides full Federal support to States to increase payments for Medicaid primary care services to Medicare rates in 2013 and 2014.

Adjusts Hospital and Other Payments. The Bill lowers the reduction in Federal Medicare and Medicaid DSH payments by $4 billion over 10 years. It changes the market basket productivity changes to that there is more time for facilities to adjust to them. It changes the effective date for changes to physician-owned hospitals. It adopts the House policies on 340B drug price access and Medicaid reformulations. And, it increases the savings from imaging.

Simplify Income Definitions. The President's Bill seeks to simplify eligibility rules for various existing programs as well as for the new tax credits. Consistent with some of the policies in the House bill, the President's Bill will conform income definitions to make the system simpler for beneficiaries to navigate and States and the Federal government to administer by: changing the definition of income used for assistance from modified gross income to modified adjusted gross income, which is easier to implement; creating a 5% income disregard for certain Medicaid eligibility determinations to ease the transition from States' current use of income disregards; streamlining the income reconciliation process for determining tax credits and reduced cost sharing; and clarifying the tax treatment of employer contributions for adult dependent coverage.

Delay and Reform of Fees on Health Insurance Providers. Like the drug industry, the health insurance industry stands to gain as more Americans get coverage. The President's enacts an assessment on the industry beginning in 2014 to coincide with broader coverage provisions which will substantially expand the market for health insurance providers. It provides limited exemptions for plans that serve critical purposes for the community, including non-profits that receive more than 80 percent of their income from government programs targeting low-income or elderly populations, or those with disabilities, as well as for voluntary employees' beneficiary associations (VEBAs) that are not established by employers. The provision is estimated to raise $60 billion over 10 years.

Delay and Convert Fee on Medical Device Manufacturers to Excise Tax. The medical device industry also stands to gain from expanding health insurance coverage. The President's Bill includes an excise tax on certain medical devices that starts in 2013 to facilitate administration by the IRS and raises $20 billion over 10 years.

Protect the Social Security Trust Funds. The President's Bill provides that, if necessary, funds will be transferred to the Social Security Trust Funds to ensure that they are held harmless by the Bill.

Ensure Effective Implementation. The policy changes in health insurance reform will require careful, effective, deliberate, and transparent implementation. The President's Bill appropriates $1 billion for the Administration to implement health insurance reform policies. It also delays several of the policies to ensure effective implementation and improve transitions: the therapeutic discovery credit, elimination of the deduction for expenses allocable to the Medicare Part D subsidy, the pharmaceutical and medical device industry fees, the health insurance industry fee and the Community First Choice Act.